

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
Honolulu, Hawaii

January 26, 2007

Acceptance Date: August 24, 2005
Expiration Date: February 15, 2007

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Request to Extend the Processing Period for an Additional 60-days for Conservation District Use Application HA-3250 for the Commercial Use of Hand Quarried Volcanic Ash Located at Pu'u Nene, Humu'ula, North Hilo, island of Hawaii, (3) 3-8-001:001

APPLICANT: Jack Lockwood

LANDOWNER: State of Hawaii
Division of Forestry and Wildlife

AREA OF PARCEL/ \approx 52982 acres
USE: \approx .727 acres

SUBZONE: Resource Subzone

BACKGROUND:

On August 24, 2005, the Department of Land and Natural Resources (DLNR) accepted Conservation District Use Application (CDUA) HA-3250 for commercial use of hand-quarried ash. The original 180-day processing deadline ended on February 20, 2006. However on November 17 and 23, 2005, the Office of Conservation and Coastal Lands (OCCL) received two petitions requesting a Contested Case Hearing, and asked for 90-day continuance of the 180-day expiration deadline.

The applicant requested and was granted an extension of 90 days to the statutory 180-day processing period. The new expiration date was May 21, 2006 (**Exhibit 1 & 2**).

The applicant requested and was granted an extension of 90 days to the statutory 180-day processing period. The new expiration date was May 21, 2006 (**Exhibit 1 & 2**).

On April 28, 2006, OCCL asked that the applicant request for another time extension. A 60-day time extension had been requested by the applicant (**Exhibit 3**). On May 15, 2006, the Board of Land and Natural Resources (Board) amended the request for a 60-day time extension and extended the processing period for CDUA HA-3250 an additional 120-days to September 18, 2006 to allow more time to complete the contested case hearing process (**Exhibit 4**).

On August 7, 2006, OCCL asked that if the applicant wished to request for a time extension then to provide written documentation by August 16, 2006 (**Exhibit 5**). The applicant requested a 60-day time extension (**Exhibit 6**). On August 25, 2006, the Board approved the 60-day time extension to November 17, 2006 to allow additional time to complete the contested case hearing process (**Exhibit 7**).

On October 13, 2006, Staff communicated with the applicant's Counsel to request for a time extension (**Exhibit 8**). Response from the applicant's Counsel was received on October 23, 2006 for a 90-day time extension request (**Exhibit 9**). On October 27, 2006, the Board approved the 90-day time extension to February 15, 2007 (**Exhibit 10**).

On January 10, 2007, Staff received a 60-day time extension request for this application (**Exhibit 11**). As stated in the request, the contested case hearing has been completed and we are awaiting the Hearing Officer's findings.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for granting time extensions to the CDUA processing period is provided in Section 183C-6(b), HRS, which states that "...when a contested case hearing is required pursuant to Chapter 91, the one-hundred eighty days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the Board." The subject request is for a 60-day time extension.

DISCUSSION:

Staff believes that all interests are best served by extending the CDUA processing period to allow for the continuance of the Contested Case Hearing.

Staff, therefore, recommends as follows:

RECOMMENDATION:

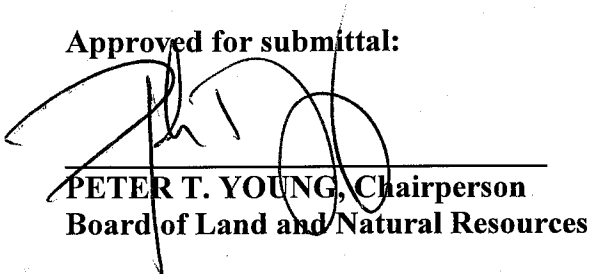
That the Board of Land and Natural Resources approve the applicant's request and extend the processing period for CDUA HA-3250 an additional 60-days, to April 16, 2007 to allow additional time to complete the contested case hearing process.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:


PETER T. YOUNG, Chairperson
Board of Land and Natural Resources

geometrician

ASSOCIATES, LLC

integrating geographic science and planning

phone: (808) 982-5831 fax: (808) 966-7593 HC 2 Box 9575 Kea'au Hawai'i 96749
ronterry@verizon.net

January 10, 2006

Sam Lemmo, Administrator
Hawaii BLNR-OCCL
P.O. Box 621
Honolulu HI 96809

RECEIVED
OFFICE OF CONSERVATION
DEPT. OF LAND & NATURAL RESOURCES
2006 JAN 11 A 9:58

Dear Mr. Lemmo:

I have been informed that the 180-day period for our Conservation District Use Application (CDUA-HA 3250) for Hand Quarrying of Volcanic Ash at Pu'u Nene, North Hilo, TMK 3-8-01:01, will be expiring in February. As we do not expect the Contested Case process to be resolved by that time, I would like to request a 90-day extension.

If you have any questions, please call me at 982-5831.

Sincerely,

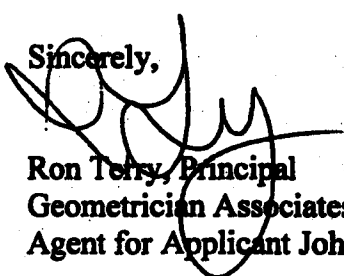

Ron Terry, Principal
Geometrician Associates
Agent for Applicant John P. Lockwood, Ph.D.

EXHIBIT 1

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CC: HA-06-01

Jack Lockwood
c/o Ron Terry
Geometrician Associates
HC 2 Box 9575
Kea'au, Hawaii 96749

JAN 19 2006

Dear Mr. Lockwood:

SUBJECT: Request for the Extension of the Processing Period for Conservation District Use Application (CDUA) HA-3250 for the Commercial Use of Hand Quarried Volcanic Ash Located at Pu'u Nene, Kahohe, North Hilo, Island of Hawaii, TMK: (3) 3-8-001:001

This letter acknowledges your request for an extension to the processing period for your CDUA to address petitions regarding CDUA HA-3250.

Pursuant to Section 183C-6(b), Hawaii Revised Statutes, the 180-day processing period may be extended an additional 90 days at the request of an applicant when a contested case hearing is requested pursuant to Chapter 91, such as in your case. Any requests for additional extensions shall be subject to the approval of the Board of Land and Natural Resources.

Therefore, the extended expiration date for your CDUA is now May 21, 2006.

Should you have any questions, please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382.

Sincerely,

A large, stylized handwritten signature of Samuel J. Lemmo is written over the word "Sincerely," and the title "Samuel J. Lemmo, Administrator".

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

cc: Chairperson
Hawaii Board Member
HDLO/DOFAW

EXHIBIT 2

CADES SCHUTTE LLP
05:22:26 p.m. 05 01 2006 212

ca des schutte

May 1, 2006

Roy A. Vitousek III
Direct Line: (808) 329-5811
Direct Fax: (808) 326-1175
E-mail: rvitousek@ca des.com

VIA FACSIMILE AND MAIL (808) 587-0322

K. Tiger Mills
Department of Land and Natural Resources
1151 Punchbowl Street, Room 131
Honolulu, Hawaii 96813

Re: DLNR File HA-060;1 In the Matter of a Contested Case Regarding a Petition to Deny Conservation District Use application (CDUA HA-3250) for the Commercial Use of Hand Quarried Volcanic Ash Located on State Owned Land at Pu'u Nene, Kaohe, North Hilo, Island of Hawaii; TMK: (3) 3-8-001:001

Dear Ms. Mills:

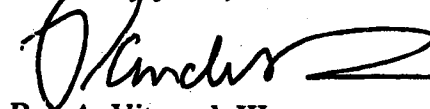
You contacted our office on April 28, 2006 to request an extension of the 180-day deadline for the Board or Chairperson to render a decision with respect to the CDUA. We understand that the current decision deadline is May 21, 2006, and that the Hearing Officer has prior obligations during the first several weeks of May. The Applicant is agreeable to a sixty (60) day extension.

On behalf of the applicant, we hereby request, pursuant to HRS 183C-6(b), that the Board extend the 180-day deadline for the Department, Board or Chairperson to render a decision with respect to the CDUA by 60 days, or no later than July 20, 2006.

There has already been a ninety (90) day extension to accommodate the contested case hearing, and it does not appear that the process of selecting a Hearing Officer has been completed.

We respectfully request that the contested case hearing be scheduled as soon as reasonably possible.

Very truly yours,



Roy A. Vitousek III
for

CADES SCHUTTE
A Limited Liability Law Partnership

cc: Geohazards Consultants International, Inc.
ImanageDB:648003.1

C S

EXHIBIT 3

Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
Tel: 808.521-9200
Fax: 808.521-9210
www.cades.com

Kona Office
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740
Tel: 808.329-5811
Fax: 808.326-1175

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUA: HA-3250

MAY 16 2006

Roy A. Vitousek III
Cades Schutte
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740

Dear Mr. Vitousek,

SUBJECT: Request to Extend the Processing Period for an Additional 60-Days for Conservation District Use Application (CDUA) HA-3250 for the Commercial Use of Hand Quarried Volcanic Ash Located at Pu'u Nene, Humu'ula, North Hilo, island of Hawaii, TMK: (3) 3-8-001:001

This is to inform you that on May 15, 2006, the Board of Land and Natural Resources amended your request for a 60 day time extension and extend the processing period for CDUA HA-3250 an additional 120-days (to September 18, 2006) to allow sufficient time to complete the contested case hearing process.

Should you have any questions, please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382.

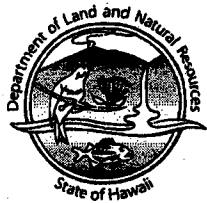
Sincerely,

A handwritten signature in black ink, which appears to read "Samuel J. Lemmo", is written over a large, stylized, handwritten "S" that spans across the "Sincerely," text.

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

cc: Chairperson
HDLO
County of Hawaii Planning Department

EXHIBIT 4



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

CDUA: HA-3250

AUG - 7 2006

Roy A. Vitousek III
Cades Schutte
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740

Dear Mr. Vitousek,

SUBJECT: Time Extension Request for Conservation District Use Application (CDUA)
HA-3250

As you are aware, your client's application for hand-quarrying of volcanic ash on State land is due to expire on September 18, 2006. Should your Client wish to request for a time extension for his application, then please provide written documentation of this request to the Office of Conservation and Coastal Lands (OCCL) no later than Wednesday, August 16, 2006. OCCL Staff would like to make a recommendation to the Board regarding this CDUA on August 25, 2006.

Should you have any questions regarding this matter please contact Tiger Mills of our Office of Conservation and Coastal Lands at (808) 587-0382.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

August 11, 2006

Roy A. Vitousek III
Direct Line: (808) 329-5811
Direct Fax: (808) 326-1175
E-mail: rvitousek@ca des.com

Samuel J. Lemmo
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P. O. Box 621
Honolulu, Hawaii 96809

Re: DLNR File HA-060; (CDUA HA-3250) TMK: (3) 3-8-001:001
Applicant: Geohazards Consultants International, Inc.

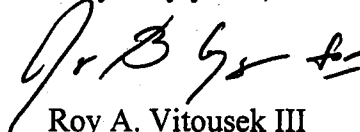
RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2006 AUG 14 A 8:28
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Lemmo:

This letter is written in response to your letter dated August 7, 2006. The 180-day expiration period, as extended, is set to expire on September 18, 2006.

While we are disappointed with the slow progress in this contested case to date, we will request a 60-day extension of the 180-day deadline. We understand the difficulties faced by the Hearing Officer in being presented with several untimely requests for contested case hearing party status. We hope that all participants in this matter, whoever they turn out to be, will be able to move the case forward and set it for hearing as soon as possible.

Very truly yours,



Roy A. Vitousek III

for

CADES SCHUTTE

A Limited Liability Law Partnership

RAV:jbg

cc: Geohazards Consultants International, Inc.
Francis Yamashita
David Paul
Keoni Choy

ImanageDB:664074.1

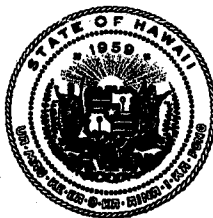
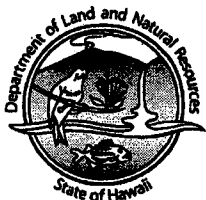
C S

EXHIBIT 6

Cades Schutte Building
1000 Bishop Street, Suite 1200
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Tel: 808.521-9200
Fax: 808.521-9210
www.cades.com

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Kailua Kona, Hawaii 96740
Tel: 808.329-5811
Fax: 808.326-1175

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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PETER T. YOUNG
CHAIRPERSON
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUA: HA-3250

Roy A. Vitousek III
Cades Schutte
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740

AUG 28 2006

Dear Mr. Vitousek,

SUBJECT: Request to Extend the Processing Period for an Additional 60-Days for Conservation District Use Application (CDUA) HA-3250 for the Commercial Use of Hand Quarried Volcanic Ash Located at Pu'u Nene, Humu'ula, North Hilo, island of Hawaii, TMK: (3) 3-8-001:001

This is to inform you that on August 25, 2006, the Board of Land and Natural Resources approved your request for a 60-day time extension to extend the processing period for CDUA HA-3250 to **November 17, 2006** to allow additional time to complete the contested case hearing process.

Should you have any questions, please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382.

Sincerely,

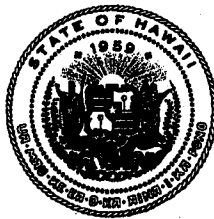
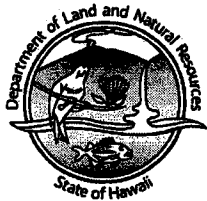
A large, stylized handwritten signature in black ink, which appears to read "Samuel J. Lemmo".

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

cc: Chairperson
HDLO
DOFAW-Roger Imoto
County of Hawaii Planning Department

EXHIBIT 7

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
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DEAN NAKANO
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AQUATIC RESOURCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUA: HA-3250

Roy A. Vitousek III
Cades Schutte
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740

OCT 13 2006

Dear Mr. Vitousek,

SUBJECT: Time Extension Request for Conservation District Use Application (CDUA) HA-3250

As you are aware, your client's application for hand-quarrying of volcanic ash on State land is due to expire on November 17, 2006. Should your client wish to request for a time extension for his application then please provide written documentation of this request to the Office of Conservation and Coastal Lands (OCCL). OCCL would like to make a recommendation to the Board regarding this CDUA on October 27, 2006.

Should you have any questions regarding this matter, please contact Tiger Mills of our Office at (808) 587-0382.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "Samuel J. Lemmo".

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

EXHIBIT 8

DEPT. OF CONSERVATION
AND COASTAL LANDS

2006 OCT 23 P 12:24

Roy A. Vitousek III
Direct Line: (808) 329-5811
Direct Fax: (808) 326-1175
E-mail: rvitousek@ca des.com

October 18, 2006

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

K. Tiger Mills
Department of Land and Natural Resources
1151 Punchbowl Street, Room 131
Honolulu, Hawaii 96813

Re: DLNR File HA-0601
In the Matter of a Contested Case Regarding a Petition to Deny Conservation
District Use application (CDUA HA-3250) for the Commercial Use of Hand
Quarried Volcanic Ash Located on State Owned Land at Pu'u Nene, Kaohe,
North Hilo, Island of Hawaii; TMK: (3) 3-8-001:001

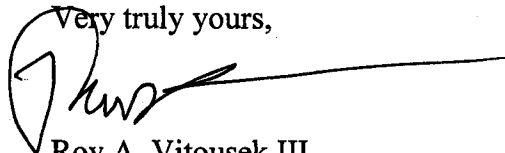
Dear Ms. Mills:

The purpose of this letter is to request an extension of the time in which Department is required to make a decision, which is apparently set to expire on November 17, 2006. As you are aware, a contested case hearing was held in Hilo on October 12, 2006, and the Hearing Officer has requested the parties to submit proposed Findings of Fact and Conclusions of Law. Once the Hearing Officer has reviewed the proposed Findings, made his own proposed Findings and Conclusions and recommendation, this matter can be set before the Board for determination.

We request a 90-day extension of the decision period. This should be sufficient time to complete post-hearing procedures in the contested case and for the matter to be placed on the Board's agenda for decision.

Thank you for your attention to this matter.

Very truly yours,



Roy A. Vitousek III
for
CADES SCHUTTE
A Limited Liability Law Partnership

RAV:bah

cc: Geohazards Consultants International, Inc.
lmanageDB:674306.1

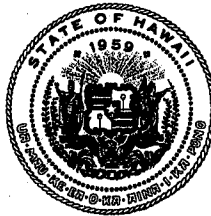
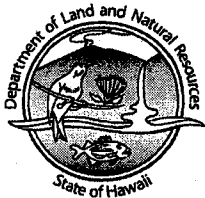
C S

EXHIBIT 9

Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
Tel: 808.521-9200
Fax: 808.521-9210
www.cades.com

Kona Office
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740
Tel: 808.329-5811
Fax: 808.326-1175

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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PETER T. YOUNG
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUA: HA-3250

Roy A. Vitousek III
Cades Schutte
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740

OCT 31 2006

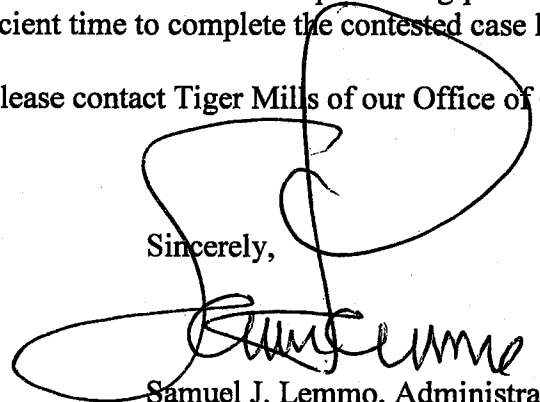
Dear Mr. Vitousek,

SUBJECT: Request to Extend the Processing Period for an Additional 90-Days for Conservation District Use Application (CDUA) HA-3250 for the Commercial Use of Hand Quarried Volcanic Ash Located at Pu'u Nene, Humu'ula, North Hilo, island of Hawaii, TMK: (3) 3-8-001:001

This is to inform you that on October 27, 2006, the Board of Land and Natural Resources approved your request for a 90-day time extension and extend the processing period for CDUA HA-3250 to **February 15, 2007** to allow sufficient time to complete the contested case hearing process.

Should you have any questions, please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

cc: Chairperson
HDLO/DOFAW

EXHIBIT 10

January 10, 2007

Roy A. Vitousek III
Direct Line: (808) 329-5811
Direct Fax: (808) 326-1175
E-mail: rvitousek@ca des.com

VIA FACSIMILE (808) 587-0322
AND VIA FIRST-CLASS MAIL

K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Re: DLNR File HA-06-01; Applicant: Geohazards Consultants International, Inc.
In the Matter of a Contested Case Regarding a Petition to Deny Conservation
District Use Application (CDUA HA-3250) for the Commercial Use of Hand
Quarried Volcanic Ash Located on State Owned Land at Pu'u Nene, Kaohe,
North Hilo, Island of Hawaii; TMK: (3) 3-8-001:001

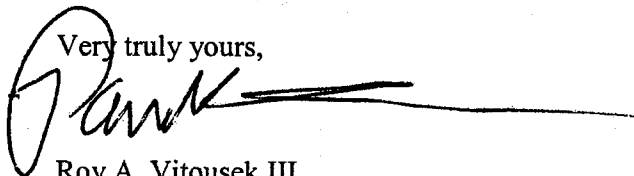
Dear Ms. Mills:

Please consider this a request for a 60-day extension of the action date for the above-referenced matter. The contested case hearing has been completed and we are awaiting the Hearing Officer's Findings and Recommendations.

We understand that the current action date is February 15, 2007, and that this request for extension will be placed on the Board's agenda for January 26, 2007.

Thank you for your consideration in this matter.

Very truly yours,



Roy A. Vitousek III
for
CADES SCHUTTE
A Limited Liability Law Partnership

RAV:bah

cc: Geohazards Consultants International, Inc.
ImanageDB:674932.1

C S

EXHIBIT 11

Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
Tel: 808.521-9200
Fax: 808.521-9210
www.cades.com

Kona Office
75-170 Hualalai Road, Suite 303
Kailua Kona, Hawaii 96740
Tel: 808.329-5811
Fax: 808.326-1175